

**ASSEMBLY BILL**

**No. 1707**

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**Introduced by Committee on Labor and Employment (Swanson  
(Chair), DeSaulnier, Laird, Leno, and Ruskin)**

February 28, 2007

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An act to amend Section 1198.5 of the Labor Code, relating to employment records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1707, as introduced, Committee on Labor and Employment. Private employment.

Under existing law, employees have a right to inspect employment records.

This bill would require employers to maintain employment records for a specified time and to provide inspection and copies within a specified time to current and former employees or their representatives, and would impose sanctions for failure to do so.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1198.5 of the Labor Code is amended to  
2 read:  
3 1198.5. (a) Every *current and former* employee, *and his or*  
4 *her representative*, has the right to inspect *and receive copies of*  
5 the personnel records that the employer maintains relating to the  
6 employee's performance or to any grievance concerning the  
7 employee.

(b) The employer shall make the contents of those personnel records available to the *current or former employee, or his or her representative*, at reasonable intervals and at reasonable times, *but not later than 21 calendar days from the date of a written or oral request for these records. Upon a request from a current or former employee, or his or her representative, the employer shall also provide copies of the personnel records, at a charge not to exceed the actual cost of reproduction.* Except as provided in paragraph ~~(3)~~ (4) of subdivision (c), the employer ~~shall not be~~ *is not* required to make those personnel records available at a time when the employee is actually required to render service to the employer, *if the requester is the employee.*

(c) The employer shall ~~do one of~~ the following:

(1) Keep a copy of each *current* employee's personnel records at the place where the employee reports to work.

(2) *Maintain a copy of each employee's personnel records for a period of not less than four years after termination of employment.*

~~(2)~~

(3) ~~Make the~~ *a current* employee's personnel records available at the place where the employee reports to work within a reasonable period of time following ~~an employee's request~~ *a request by an employee or his or her representative, but not later than 21 calendar days from the date of a request.*

~~(3)~~

(4) ~~Permit the~~ *a current* employee or his or her representative to inspect the personnel records at the location where the employer stores the personnel records, with no loss of compensation to the employee.

(5) *Make a former employee's personnel records available for inspection at the location where the employer stores the records, or, at the request of the former employee or his or her representative, provide a copy of the personnel records to the former employee or his or her representative, not later than 21 calendar days from the date of the request.*

(d) The requirements of this section ~~shall~~ do not apply to:

(1) Records relating to the investigation of a possible criminal offense.

(2) Letters of reference.

(3) Ratings, reports, or records that were:

1 (A) Obtained prior to the employee's employment.

2 (B) Prepared by identifiable examination committee members.

3 (C) Obtained in connection with a promotional examination.

4 (4) Employees who are subject to the Public Safety Officers  
5 Procedural Bill of Rights, ~~Chapter~~ (Chapter 9.7 (commencing with  
6 Section 3300) of Division 4 of Title 1 of the Government ~~Code~~  
7 Code).

8 (5) Employees of agencies subject to the Information Practices  
9 Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4  
10 of Division 3 of the Civil Code).

11 (e) The Labor Commissioner may adopt regulations that  
12 determine the reasonable times and reasonable intervals for the  
13 inspection of records maintained by an employer that is not a public  
14 agency.

15 (f) If a public agency has established an independent employee  
16 relations board or commission, an employee shall first seek relief  
17 regarding any matter or dispute relating to this section from that  
18 board or commission before pursuing any available judicial  
19 remedy.

20 (g) In enacting this section, it is the intent of the Legislature to  
21 establish minimum standards for the inspection of personnel  
22 records by employees. Nothing in this section shall be construed  
23 to prevent the establishment of additional rules for the inspection  
24 of personnel records that are established as the result of agreements  
25 between an employer and a recognized employee organization.

26 (h) *If an employer fails to permit a current or former employee*  
27 *or his or her representative to inspect or copy personnel records*  
28 *within the times specified in this section, the current or former*  
29 *employee or the Labor Commissioner may recover a penalty of*  
30 *seven hundred fifty dollars (\$750) from the employer.*

31 (i) *A current or former employee may also bring an action for*  
32 *injunctive relief to obtain compliance with this section, and may*  
33 *also recover costs and reasonable attorney's fees in such an action.*